THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.3839 OF 1998

ORAL ORDER:

This writ petition is field seeking a declaration that the alleged action of the respondents 3 and 4 in forcibly taking away 100 bags of paddy from the petitioner's house without following due process of law as contemplated under A.P. Co-operative Societies Act, 1964 (for short "the Act") as arbitrary and illegal.

The petitioner does not dispute the fact that he had borrowed certain amount from the 3rd respondent-Bank and that certain amount was still due to be paid. However, it is alleged that the respondents 3 and 4 came to his house on 31.5.1997 without giving any notice and without disclosing any reasons took away 100 bags of paddy.

In response to *Rule* nisi, a detailed counter affidavit has been field by the Manager of the District Co-operative Central Bank, Khammam, on behalf of respondents 1 to 3 denying the allegations made by the petitioner that paddy was seized from his house. It is explained that the petitioner having availed crop loan of Rs.12,000/- on 22.6.1995 failed to repay the same and, consequently, the Society filed an application under Section 71 of the Act before the Deputy Registrar and after conducting due enquiry Recovery Certificate under Section 71 of the Act was issued on 14.12.1996 for Rs.13,299/- with further interest. In spite of the same, the petitioner failed to pay the amount and, consequently, Execution Petition was filed and demand notice in Form No.2 was served on the petitioner on 27.7.1997. Though the said notice was acknowledged by the wife of the petitioner, the amount due was not paid. It is stated that the writ petition was filed with all false allegations and only to pressurise the respondents.

The version of the respondents has not been contradicted by the petitioner and nothing has been placed before this Court to disbelieve the claim of the respondents that as per the Certificate

issued under Section 71 of the Act, the petitioner is liable to pay a sum of Rs.13,299/- with further interest. It is also clear that Execution Petition was filed by the respondents and steps are taken were in pursuance of the orders of the competent authority. Even assuming that there was any irregularity in conducting the proceedings, it is for the petitioner to work out the appropriate remedy as available under the A.P. Co-operative Societies Act, 1964 and the Rules made thereunder and that the writ petition filed under Article 226 of the Constitution of India cannot be straight away maintained.

Accordingly, granting leave an/d liberty to the petitioner to work out the appropriate remedy, if so advised, the writ petition is dismissed. No costs.

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(G. ROHINI).

21st February, 2007.
Kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.3839 OF 1998

21st February, 2007.

Between:

Sri Pusam Ganapathi Rao. .. Petitioner.

And

The General Manager,
The Cooperative Central Bank,
Khammam and others. .. Respondents.